

DEFENDANTS' EXHIBIT B

MICHIGAN DEPARTMENT OF CORRECTIONS

of 2

CSJ-240B
Rev. 10/10

CLASS I MISCONDUCT HEARING REPORT

Prisoner	Prisoner Name	Facility Code	Lock	Violation Date
369273	Smith	IBC	8-11	01/02/2020

Charge(s)

Failure to Disperse (1828)

If Charge Changed by Hearing Officer

Plea

☐ Guilty☒ Not Guilty

Misconduct Report Read to and Discussed with Prisoner

☒ (check if applies)

Hearing Investigation Read to and Discussed with Prisoner

☒ (check if applies)

No Hearing Investigation Requested

☐ (check if applies)

EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT

I began the hearing by viewing a video outside of prisoner's presence. The video shows staff members on the floor securing prisoners. Prisoner is standing a few feet from the altercation and takes a step forward, gesturing. Prisoner has plenty of room to retreat from the area of the disturbance. The video is marked confidential for security purposes. Prisoner present. All documents are one page unless otherwise noted.

Misconduct Report, Hearing Investigation Report, including prisoner's statement to the hearing investigator, statement of Officer Wall, read to and discussed with prisoner.

ORAL STATEMENT FROM PRISONER AT HEARING:

When the fight occurred I was on the telephone. When the police came, there were twenty police over him. I had a lot of legal work on the chair; it's my life's blood. I asked can I grab my paperwork they said no, stay there, so I stood there; then they told me to move, I did.

I told prisoner the decision, sanction and dates prior to his leaving the hearing room.

REASONS FOR FINDINGS

MDOC Policy 03.03.105, Attachment A defines Failure to Disperse as failure or refusal of a prisoner to leave an area in which a disturbance is occurring when the prisoner is physically able to leave; includes obstruction of staff at the scene of the disturbance. Disturbance is defined as a fight between prisoners, subduing or taking into custody of a prisoner or prisoners by staff, destruction of property, or any similar action or occurrence.

Prisoner does not deny that he stood within a few feet of a fight and to staff securing the fighting prisoners without leaving the area of the incident. Prisoner said he asked if he could get his paper work on the chair. Instead of leaving the area upon the fight's beginning, prisoner stayed while staff arrived and even asked to retrieve paperwork. Prisoner failed to leave an area in which a disturbance was occurring when prisoner was physically able to leave the area. That prisoner later complied with the order of staff to leave the area does not disprove the charge.

PROPERTY DISPOSITION (for contraband see PD 04.07.112)

FINDINGS

Charge No. 1	<input checked="" type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code	017
Charge No. 2	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code	
Charge No. 3	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code	
Charge No. 4	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code	

DISPOSITION (select one or more) (Toplock & LOP Sanctions End at 6:00 am)

	Begin	Ends		
10 Days of Detention	01/10/2020	01/20/2020		Days Credit
Days Top Lock				Hours Extra Duty
30 Days Loss of Privileges	01/11/2020	02/10/2020	\$	Restitution

Misconduct Hearing Report personally handed to Prisoner by Hearing Officer on this date: _____ (Check if Applies) ☐

Hearing Report given to Staff Member by Hearing Officer for Delivery to Prisoner this date: 1/10/2020 (Check if Applies) ☒

Date of Hearing 01/10/2020Name of Staff Member HI Novak

Hearing Officer's Name

Hearing Officer's Signature

Date

S. Burke 053

S. C. Burke

1-10-20

DISTRIBUTION Record Office, Central Office File, Prisoner, Counselor File, Hearing investigator